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APPLICATION NO.	FILING DATE	FIRST NAMED INVENTOR	ATTORNEY DOCKET NO.	CONFIRMATION NO.
10/773,171	02/09/2004	Keiji Yamamoto	248507US3X	6773
22850	7590	03/10/2006	EXAMINER	
OBLON, SPIVAK, MCCLELLAND, MAIER & NEUSTADT, P.C. 1940 DUKE STREET ALEXANDRIA, VA 22314			LUM VANNUCCI, LEE SIN YEE	
			ART UNIT	PAPER NUMBER
			3611	

DATE MAILED: 03/10/2006

Please find below and/or attached an Office communication concerning this application or proceeding.

Office Action Summary

Application No.

10/773,171

Applicant(s)

YAMAMOTO ET AL.

Examiner

Lee Lum

Art Unit

3611

-- The MAILING DATE of this communication appears on the cover sheet with the correspondence address --

Period for Reply

A SHORTENED STATUTORY PERIOD FOR REPLY IS SET TO EXPIRE 3 MONTH(S) OR THIRTY (30) DAYS, WHICHEVER IS LONGER, FROM THE MAILING DATE OF THIS COMMUNICATION.

- Extensions of time may be available under the provisions of 37 CFR 1.136(a). In no event, however, may a reply be timely filed after SIX (6) MONTHS from the mailing date of this communication.
- If NO period for reply is specified above, the maximum statutory period will apply and will expire SIX (6) MONTHS from the mailing date of this communication.
- Failure to reply within the set or extended period for reply will, by statute, cause the application to become ABANDONED (35 U.S.C. § 133). Any reply received by the Office later than three months after the mailing date of this communication, even if timely filed, may reduce any earned patent term adjustment. See 37 CFR 1.704(b).

Status

- 1) ☒ Responsive to communication(s) filed on 09 February 2004.
- 2a) ☐ This action is **FINAL**. 2b) ☒ This action is non-final.
- 3) ☐ Since this application is in condition for allowance except for formal matters, prosecution as to the merits is closed in accordance with the practice under *Ex parte Quayle*, 1935 C.D. 11, 453 O.G. 213.

Disposition of Claims

- 4) ☒ Claim(s) 1-18 is/are pending in the application.
- 4a) Of the above claim(s) _____ is/are withdrawn from consideration.
- 5) ☐ Claim(s) _____ is/are allowed.
- 6) ☒ Claim(s) 1-4, 11 and 13-15 is/are rejected.
- 7) ☒ Claim(s) remaining is/are objected to.
- 8) ☐ Claim(s) _____ are subject to restriction and/or election requirement.

Application Papers

- 9) ☐ The specification is objected to by the Examiner.
- 10) ☐ The drawing(s) filed on _____ is/are: a) ☐ accepted or b) ☐ objected to by the Examiner.
Applicant may not request that any objection to the drawing(s) be held in abeyance. See 37 CFR 1.85(a).
Replacement drawing sheet(s) including the correction is required if the drawing(s) is objected to. See 37 CFR 1.121(d).
- 11) ☐ The oath or declaration is objected to by the Examiner. Note the attached Office Action or form PTO-152.

Priority under 35 U.S.C. § 119

- 12) ☒ Acknowledgment is made of a claim for foreign priority under 35 U.S.C. § 119(a)-(d) or (f).
- a) ☒ All b) ☐ Some * c) ☐ None of:
1. ☒ Certified copies of the priority documents have been received.
2. ☐ Certified copies of the priority documents have been received in Application No. _____.
3. ☐ Copies of the certified copies of the priority documents have been received in this National Stage application from the International Bureau (PCT Rule 17.2(a)).
- * See the attached detailed Office action for a list of the certified copies not received.

Attachment(s)

- 1) ☒ Notice of References Cited (PTO-892)
- 2) ☐ Notice of Draftsperson's Patent Drawing Review (PTO-948)
- 3) ☒ Information Disclosure Statement(s) (PTO-1449 or PTO/SB/08)
Paper No(s)/Mail Date 24964 + 8/13/04
- 4) ☐ Interview Summary (PTO-413)
Paper No(s)/Mail Date. _____
- 5) ☐ Notice of Informal Patent Application (PTO-152)
- 6) ☐ Other: _____

DETAILED ACTION

1. The following is a quotation of the appropriate paragraphs of 35 U.S.C. 102 that form the basis for the rejections under this section made in this Office action:

A person shall be entitled to a patent unless –

(b) the invention was patented or described in a printed publication in this or a foreign country or in public use or on sale in this country, more than one year prior to the date of application for patent in the United States.

Claims 14 and 15 are rejected under 35 U.S.C. 102(b) as being anticipated by Yoshitaka et al, Japanese Abstract 2001-090112.

Yoshitaka discloses a working machine 1 comprising

Lower traveling body 3,

Upper rotating body 2 mounted on the lower body, and having

Base including components 6,21-23, the base constituted by an upper frame (unidentified, inherent),

The upper frame having bottom plate 6 connected rotatably to the lower body through swing bearing 21,

Working device including boom 31, arm 28, and bucket 30,

Main frame including element 36 disposed on the bottom plate, and constituted by longitudinal wall 45 that extends backward from mounting portion 26 for the working device,

Fuel tank 10 mounted on the bottom plate, and contacting the wall (fig 2),

The tank including hollow projecting portion including element 10A that extends over the wall, and projects sideways at an upper end portion of the tank (fig 3).

Art Unit: 3611

2. The following is a quotation of 35 U.S.C. 103(a) which forms the basis for all obviousness rejections set forth in this Office action:

(a) A patent may not be obtained though the invention is not identically disclosed or described as set forth in section 102 of this title, if the differences between the subject matter sought to be patented and the prior art are such that the subject matter as a whole would have been obvious at the time the invention was made to a person having ordinary skill in the art to which said subject matter pertains. Patentability shall not be negated by the manner in which the invention was made.

A. **Claims 1-4, 11 and 13** are rejected under 35 U.S.C. 103(a) as being unpatentable over Fought et al 5002325 in view of Yoshitaka.

Fought discloses a working machine 10 comprising

Fuel tank 40 mounted removably in a tank-mounting portion (unidentified in fig 1) within a body (i.e., bottom of vehicle) of the machine, the tank being removable in a substantially horizontal direction (i.e., slidable due to portions 42 and 44),

The tank including L-shaped portions (ledges 42), and projecting portions 74,

Engaging portions formed on both machine body; 44, and tank; 42, so to engage automatically when the tank is inserted into the mounting portion, and to prevent vertical movement of the tank,

Dislodgement means (c4, in 18-21) to prevent the tank from moving in the removable direction.

The reference does not disclose a battery mounted on the machine, nor the machine as including a lower body with an upper rotating body. Yoshitaka shows these components including

Lower body 3 with upper rotating body 2,

The latter including an upper frame (unidentified, inherent) including main frame 36, with bottom plate 22, the plate including longitudinal wall 45,

The main frame also including engaging portions 51 for tank 10, and,
Battery 17.

It would have been obvious to one with ordinary skill in the art at the time the invention was made to include Fought's fuel tank in another type of machine/vehicle, as shown in Yoshitaka, so to provide a fuel tank that is easily accessible, yet secured connected to the frame for safety.

Additionally, it would have been obvious to include a battery in order to provide power for another vehicle components such as lights, switches, etc, as is very well-known.

3. **Claims 5-10, 12 and 16-18** are objected to as being dependent upon a rejected base claim, but would be allowable if rewritten in independent form including all of the limitations of the base claim and any intervening claims. Prior art does not disclose the machine described above further comprising the main frame as including a floor plate disposed above the bottom plate with a space between the two.

4. The prior art considered pertinent, but not relied upon, includes:

Akanane et al 6905139, Takemura et al 6772544, Naruse et al 6678972, Sugano 6540036, Murakami et al 5715615, Oda et al 5711095.


5. Communication with the Examiner/USPTO

Any inquiry concerning this communication, or others, should be directed to Ms. Lum-Vannucci at 571 272 6649, M-F, 9-5. If she can't be reached, her supervisor, Ms. Lesley Morris, may be reached at 571 272 6651. Our fax number is 571 273 8300.

Info re the status of an application may be obtained from the Patent Application Information Retrieval (PAIR) system as follows: for unpublished applications – private PAIR only, for published applications – private or public PAIR.

Ms. Lee Lum-Vannucci
Examiner
3/3/06




LESLEY D. MORRIS
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